

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

DEREK A. MILLER,)	
Petitioner,)	Civil Action No. 7:17cv00341
)	
v.)	
)	By: Elizabeth K. Dillon
HAROLD CLARKE,)	United States District Judge
Respondent.)	

MEMORANDUM OPINION

By order entered July 20, 2017, the court conditionally filed Miller's petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. In the conditional filing order, the court noted that Miller did not sign his petition under penalty of perjury as required by Rule 2(c)(5) of the Rules Governing Section 2254 Proceedings and ordered him, *inter alia*, to submit an affidavit stating that he declares/certifies/verifies/states, under penalty of perjury, that the information submitted to the court in his petition is true and correct. The court advised Miller that failure to comply with the court's order within twenty days would result in the dismissal of his petition. Miller did not file an affidavit.

Inasmuch as the time to respond has passed and Miller has failed to comply with the court's order, the court will dismiss this action without prejudice. Miller may re-file his claims in a separate action, subject to the applicable statute of limitations.

An appropriate order will be entered.

Entered: August 28, 2017.

/s/ Elizabeth K. Dillon
Elizabeth K. Dillon
United States District Judge